HON'BLE SRI JUSTICE D.S.R. VARMA

–

WRIT PETITION NOS. 9551 AND 18286 OF 1995

W.P.NO. 9551 OF 1995

Between:

Syndicate Bank, Zonal Office, Somajiguda, Hyderabad, represented by its Assistant General Manager, Zonal Office, Hyderabad.

…

Petitioner

AND

The Industrial Tribunal (Central) Hyderabad represented by its Presiding Officer and one another.

….Respondents

–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–

W.P.No. 18286 of 1995

Between:

M. Chencha Reddy, S/o M. Venkatarama Reddy, Valiveru, T. Sundar Mandal, Guntur District.

…petitioner

Industrial Tribunal (Central) Chandra Vihar Building, Hyderabad and another

…..Respondents

HON'BLE SRI JUSTICE D.S.R. VARMA

WRIT PETITION NOS. 9551 AND 18286 OF 1995

COMMON ORDER :

Heard both sides.

2. Since both the Writ Petitions are inter-related, parties being common and the impugned award also being common, they are being disposed of by this common order.

3. W.P.No.9551 of 1995 is filed by the respondent—Syndicate Bank (employer) while W.P.No.18286 of 1995 is filed by the petitioner -- employee, before the Industrial Tribunal-I, Hyderabad (for brevity "the Tribunal"), assailing the award, dated 28.9.1994, passed by the Tribunal in I.D.No.87 of 1992.

4. For the sake of convenience, the petitioners in W.P.No.9551 of 1995 and W.P.No.18286 of 1995 will be referred to as "the Bank" and "the employee", respectively.

5. The factual background appears to be that the employee, who was initially appointed as a Clerk in the Bank under the category of 'Ex-Service Men', was entrusted with the duties of Cashier somewhere in the year 1983. During that period, it was alleged that, fraudulently the employee had withdrawn a sum of Rs.5,000/- on 22.9.1983 from the Savings Bank Account of a customer, by way of taking a withdrawal slip and further forged the customer's signature unauthorisedly. Hence, it was alleged that the employee, by misusing his official position and resorting to illegal activity of forgery, had withdrawn the amount of the customer of the Bank. A regular enquiry had been

ordered by the competent authority.

6. It is pertinent to note that the employee was charge sheeted and he did not even choose to examine himself. Consequently, the evidence adduced by the management was also not attempted to be rebutted by the employee. Therefore, the Enquiry Officer found the employee guilty and submitted his report. Consequent upon the said report of the Enquiry Officer, the 'Disciplinary Authority' imposed punishment of dismissal of the employee from service. Challenging the same, the employee had preferred an appeal also to the Appellate Authority before which it appears that the employee had agreed his misconduct. Notwithstanding the said contention allegedly made, the Enquiry Officer as well as the Disciplinary Authority arrived at a conclusion that the employee had agreed the misconduct.

7. The Tribunal also found the employee guilty of the alleged misconduct. However, in exercise of jurisdiction conferred on it under Section 11-A of the Industrial Disputes Act, 1947, the Tribunal ordered reinstatement of the employee without back wages, however, with continuity of service.

8. The reasoning of the Tribunal to pass such an award was that the employee ought to be given a chance to reform himself and this view taken by the Tribunal while recording the finding that he was guilty of misconduct and agreed with the finding recorded by the Enquiry Officer and Disciplinary Authority, abundantly irrational.

9. It is to be remembered that the employee had performed his duties as Casher dealing with public money. Any dishonest activity committed by an Officer working in a Bank or dealing with public money should be more careful than that of any other regular employee. The standard and quality of the service of an employee working in an institution like the Bank shall be unblemished and far beyond any doubt. Any misconduct would shatter the confidence of public if such an employee, who committed such a grave misconduct of forgery and misappropriating the money of the

customer of the Bank, is continued, and would definitely have a telling effect on the reputation of the Bank.

10. Of course, a lenient view was taken by the Tribunal in exercise of jurisdiction under Section 11-A of the Industrial Disputes Act. But, such a discretionary jurisdiction shall be exercised with due care and only in an appropriate case, keeping in view the gravity of misconduct and other circumstances. I am of the firm view that the misconduct of the employee is really outraging and such an employee shall not be considered for re-employment. In other words, an employee like the employee – the petitioner before the Tribunal does not deserve consideration by the Tribunal under the discretionary jurisdiction exercisable under Section 11-A of the Industrial Disputes Act.

11. For the aforementioned reasons, the Writ Petition No.9551 of 1995, filed by the Bank, is liable to be allowed and is accordingly allowed and the impugned award, dated 28-09-1994, passed by the Tribunal in I.D.No.87 of 1992, is liable to be set aside and is accordingly set aside. However, there shall be no order as to costs.

12. Coming to Writ petition No.18286 of 1995, the same is preferred by the employee, challenging the impugned award, dated 28-09-1994, passed by the Tribunal in I.D.No.87 of 1992 insofar as the finding recorded by the Tribunal that he was guilty of misconduct.

13. In view of the order passed in Writ Petition No.9551 of 1995, filed by the Bank, allowing the same, no further orders need be passed in Writ Petition No.18286 of 1995.

14. Accordingly, Writ Petition No.18286 of 1995, filed by the employee, is dismissed. However, there shall be no order as to cots.

_____

D.S.R. VARMA, J

DATE: 22.8.2006
Ka